



UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
BROOKFIELD PLACE, 200 VESEY STREET, SUITE 400  
NEW YORK, NY 10281-1022

November 13, 2020

*Via ECF*

Hon. Kiyo A. Matsumoto  
United States District Judge  
Eastern District of New York  
225 Cadman Plaza East, Room S905  
Brooklyn, NY 11201

Re: *SEC v. Shkreli*, 15-cv-7175 (KAM) (E.D.N.Y.)

Dear Judge Matsumoto:

Plaintiff Securities and Exchange Commission (“Commission”) and defendants Martin Shkreli and Evan Greebel respectfully submit this status report pursuant to the Court’s October 13, 2020 Scheduling Order.

*Status as to Shkreli*

Counsel for the Commission and for Shkreli have continued to engage in good faith discussions concerning the potential consensual resolution of all of the claims in this action in light of the resolution of the criminal charges in *United States v. Shkreli*, 15-cr-637 (KAM) (E.D.N.Y.). As noted in prior status reports, Commission counsel has informed these defendants of settlement terms counsel would be willing to recommend to the Commission, and has engaged in discussions with defense counsel concerning those terms.

At this time, the Commission and Shkreli have reached a partial settlement in principle. Counsel for Shkreli has indicated that Shkreli will consent to a judgment ordering injunctive relief, and providing that the Commission’s claims for monetary relief and an officer and director bar will be resolved by motion. Commission counsel has provided Shkreli’s counsel with a form of consent to the entry of judgment for Shkreli to execute. Once we receive the executed consent, we will submit it for the Court’s approval. We will also discuss with defense counsel a proposed briefing schedule for the anticipated motion.

*Status as to MSMB Adviser and MSMB Healthcare Adviser*

MSMB Capital Management LLC (“MSMB Adviser”) and MSMB Healthcare Management LLC (“MSMB Healthcare Adviser”) waived service of process (*see* ECF No. 7-8), but neither responded to the complaint before the case was stayed. Counsel for Shkreli and Commission counsel assumed that, if a full settlement with Shkreli were reached, the litigation as to MSMB Adviser and MSMB Healthcare Adviser could be fully resolved as well. Absent a full settlement with Shkreli, that is no longer the case. Commission counsel anticipates that, once the Court lifts the stay, these defendants will default, and the Commission will move for default judgments.<sup>1</sup>

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<sup>1</sup> On June 10, 2020, Mr. Moustakis entered a Notice of Appearance for Mr. Shkreli in this case, naming MSMB Capital Management LLC and MSMB Healthcare LLC in his Notice. However,

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*Status as to Greebel*

Since the parties' last status update, Mr. Greebel's counsel has asked for more time to evaluate the terms and conditions that the Commission counsel has indicated it would recommend to the Commission. If we cannot come to an agreement with Mr. Greebel, the Commission will request that the Court lift the stay in the case.

Counsel for the Commission needs authorization from the Commission for the specific penalty amounts counsel would seek in the anticipated motions as to Shkreli and the entity defendants and, if necessary, Greebel. Counsel for the Commission proposes to provide another status update in 30 days as to the status of seeking Commission authorization for the penalty amounts and as to whether Greebel will agree to the proposed settlement terms, which would also need to be authorized by the Commission before being submitted to the Court for approval.

Respectfully submitted,

*Paul G. Gizzi*

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Securities and Exchange Commission

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Counsel for Shkreli

*Reed Brodsky*

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Counsel for Greebel

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Mr. Moustakis does not, and has never represented these entities, and their inclusion in the Notice was strictly a clerical error. Yesterday, Mr. Moustakis left a message with the Court's deputy seeking guidance on how best to correct the error.